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REMARKS

The Examiner has rejected Claims 1-7, 9, 11-17, and 19-25 under 35 U.S.C. 103(a) as being unpatentable over Webber Jr. (U.S. Patent No. 6,167,378) in view of Kase (U.S. Patent No. 6,182,055). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to each of the independent claims. Specifically, applicant has amended each of the independent claims to at least substantially include the subject matter of former dependent Claims 24-25.

With respect to each of the independent claims, the Examiner has relied on the following excerpts from the Webber reference to make a prior art showing of applicant's claimed technique "wherein the contract is created by advertising a capability to a control component which handles contract negotiations, receiving a proposed contract based on the capability, accepting the proposed contract, receiving a seal message" (see this or similar, but not necessarily identical language in each of the independent claims).

"Next, in order to perform the step of "contracting", the digital contract is first executed (as explained below) by one party when submitted to the CAP 7 as a "non-ratified contract". Non-ratified contracts are forwarded to the CAP 13, and then notified to an individual computer or digital system located remotely at the other party. The other party may either manually or digitally accept the contract. Once the contract is accepted or executed by the other party (a "ratified contract"), the ratified contract is stored in a contracts database by the computing module 13. Generally the event of ratifying a contract authorizes that contract to operate once any time period which may be specified in the contract has lapsed. The next contract or contracts will advantageously be linked to the initiating contract." (Webber, Col. 8, lines 25-38 - emphasis added)

Applicant respectfully asserts that the excerpt above simply does not meet all of applicant's claim limitations. Specifically, the Webber reference teaches that the first step of 'contracting' involves one party executing the digital contract first, and then submitting the digital contract to a CAP as a non-ratified contract. In contrast, applicant claims a technique "wherein the contract is created by advertising a capability to a control component which handles contract negotiations, receiving a proposed contract based on

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the capability, accepting the proposed contract, receiving a seal message" (emphasis added). The contracts, as described by Webber, clearly do not meet applicant's specific claim language, since Webber fails to even mention creating contracts by advertising a capability specifically to a control component which handles contract negotiations, receiving a proposed contract based on the capability, and further receiving a seal message, as claimed by applicant.

In addition, the Examiner has relied on the following excerpt from Kase to make a prior art showing of applicant's claimed "receiving and storing a fallback proposed contract, and if replacement of the proposed contract is required, replacing the proposed contract with the fallback proposed contract" (see this or similar, but not necessarily identical language in each of the independent claims).

"Since the number of assumptions that solve a problem is not limited to one, when there are a plurality of solutions that include the assumption inferred by the inference driving portion 11, these solutions are stored in the inferred state storing means 3. The state managing means 4 selects the solution with the highest priority as a negotiation object. An assumption that satisfies the solution becomes the first proposal of the negotiation. The selected solution (inferred state) is stored in the negotiating state storing means 7 in the negotiating stage." (Kase, Col. 13, lines 42-51 - emphasis added)

Applicant respectfully asserts that the above reference from Kase only describes a technique of selecting a solution from a variety of available solutions. Further, Kase merely discloses the technique of storing all the unused inferred solutions in inferred state storing means 3. Thus, Kase not only fails to even mention a fallback proposed contract, but also fails to even suggest the replacement of a proposed contract with the aforementioned fallback proposed contract, as claimed. Specifically, Kase fails to disclose applicant's claimed technique of "receiving and storing a fallback proposed contract, and if replacement of the proposed contract is required, replacing the proposed contract with the fallback proposed contract" (emphasis added), as claimed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or

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in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has amended each of the independent claims to further distinguish applicant's claim language from the above references, as follows:

"wherein the proposed contract is selected from a predetermined set;
wherein it is determined that replacement of the proposed contract is required when the interaction governed by the proposed contract no longer meets criteria of a cost model" (see this or similar, but not necessarily identical language in each of the independent claims).

With respect to the subject matter of former Claims 24-25 (now at least substantially incorporated into each of the independent claims), the Examiner has relied on the following excerpts from the above references to make a prior art showing of applicant's claimed technique "wherein the proposed contract is selected from a predetermined set; wherein it is determined that replacement of the proposed contract is required when the interaction governed by the proposed contract no longer meets criteria of a cost model" (see this or similar, but not necessarily identical language in each of the independent claims).

"In this process the parties themselves need not verify credit, invoice, perform payables functions, collect or perform any

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number of conventional computing and accounting functions; that is done by this system." (Webber, Col. 13, lines 24-28 - emphasis added)

"The CAP is advantageously designed in a modular fashion so that each function is a separate independent subsystem. These independent subsystems include: security and firewalls, auditing, inventory management, management reporting, accounting, statistical logging and reporting, shipping options, distribution options, purchasing services, delivery/shipping schedules, integration of shipping with suppliers.

The CAP and computing module calculate data which corresponds to conventional transactions including the following: purchase orders, shipping and packing documents, bills of lading, shipper documents and instructions, invoices, receivers, payment checks. The CAP also prepares financial reports on: inventory management and adjustments, receivables, payable, sales, costs and gross profits. Each of these conventional transaction and financial reports can be automatically generated in digital format and/or hard copy format if that is desired by a person using the system. Nevertheless, a distinct advantage of the digital automated system is that it eliminates the need for much of these individual conventional transactional reports." (Webber, Col. 14, lines 4-24)

"Since the number of assumptions that solve a problem is not limited to one, when there are a plurality of solutions that include the assumption inferred by the inference driving portion 11, these solutions are stored in the inferred state storing means 3. The state managing means 4 selects the solution with the highest priority as a negotiation object. An assumption that satisfies the solution becomes the first proposal of the negotiation. The selected solution (inferred state) is stored in the negotiating state storing means 7 in the negotiating stage." (Kase, Col. 13, lines 42-51)

Applicant respectfully asserts that the above references fail to meet all of applicant's claimed language. For example, the excerpts from Kase cited above merely teach a technique of selecting a solution from a variety of available solutions where the solutions are assumptions that solve a problem as determined via inference. The Kase reference, however, does not even suggest "replacement of the proposed contract ... [specifically] when the interaction governed by the proposed contract no longer meets the criteria of a cost model" (emphasis added), as claimed. Instead, Kase merely mentions storing all inferred solutions, but not a proposed contract to use when replacement of the proposed contract is required, as claimed.

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Again, applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Thus, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 26-29 below, which are added for full consideration:

"wherein the control component selects the contract from the predetermined set of contracts" (See Claim 26);

"wherein the interaction is prohibited if the proposed contract is not accepted" (See Claim 27);

"wherein another seal message is received from the control component for completing the fallback proposed contract" (See Claim 28); and

"wherein the fallback proposed contract is stored, but not activated, before the completion, for use in case the replacement is required" (See Claim 29).

Yet again, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The

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Commissioner is authorized to charge any additional fees or credit any overpayment to
Deposit Account No. 50-1351 (Order No. NAIIP002/00.056.01).

Respectfully submitted,
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